

Management System: Environment**Subject Area: Environmental Compliance****Procedure: Establishing the Level of National Environmental Policy Act (NEPA) Review and Documentation****Issue Date and Revision Number:**

09/21/16

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1.0 Applicability

This procedure applies to the Environmental Management Consolidated Business Center (EMCBC), Field Operation Sites and/or Service Level Agreement (SLA) Site staff that assist with establishing the level of National Environmental Policy Act (NEPA) review for proposed actions. This includes project and program managers, NEPA compliance officers (NCOs), legal counsel, and Heads of Field Organizations (HFOs) (i.e., EMCBC Director and SLA Site Directors or Field Element Managers/Federal Project Directors). All proposed Federal actions must be screened according to this procedure. In situations where a largely private (i.e., seemingly non-Federal) action is subject to Federal control, responsibility, or other involvement (e.g., funding or approval), these procedures also apply to the “connected” and “indirect” impacts of the non-Federal action enabled by U.S. Department of Energy (DOE) action.

2.0 Required Procedure

Step 1	Except as provided for in SAP-OTSAM-451B-02, Rev. 0, <i>Implementing Categorical Exclusion (CX) Determinations</i> , the applicant (e.g., the sponsoring DOE Line Organization, contractor, financial assistance award recipient) prepares an Environmental Checklist (SAP-OTSAM-451B-01-F1, Rev.1) for the proposed action and submits the documentation to the sponsoring DOE line organization or NCO in accordance with local practice/procedures. The sponsoring DOE line organization or NCO provides guidance as necessary.
Step 2	The DOE sponsoring line organization reviews the checklist for completeness. <ol style="list-style-type: none"> If complete, continue to Step 3. If incomplete, it is returned to the applicant for completion.

Step 3	The DOE sponsoring line organization reviews the description of the proposed action contained in the Environmental Checklist to determine whether the activity is covered by a CX determination (SAP-OTSAM-451B-02, Rev. 0, <i>Implementing Categorical Exclusion [CX] Determinations</i>). The sponsoring organization determines if a CX applies. If there is uncertainty regarding whether a CX applies, the line organization may request support from the NCO.
Step 4	The Sponsoring Line Organization forwards the Environmental Checklist to the NCO. a. If the documentation is adequate, continue to Step 5. b. If the documentation is inadequate, the NCO returns the Environmental Checklist with comments for revision to the DOE sponsoring line organization, which in turn returns it to the applicant.
Step 5	The NCO reviews the description of the proposed action contained in the Environmental Checklist to determine whether NEPA applies (i.e., whether the action is subject to Federal control and responsibility). See the definition of “action” in 10 CFR 1021.104, Definitions. a. If yes, continue to Step 6. b. If not, the rationale is documented and the NEPA review ends.
Step 6	If the Environmental Checklist describes a Federal action, the NCO reviews the Environmental Checklist to determine the potential of the proposed action to affect the human environment, consulting Subpart D of 10 CFR 1021, Typical Classes of Actions. a. If the proposed action is listed in 10 CFR 1021, Appendix A to Subpart D of Part 1021—Categorical Exclusions Applicable to General Agency Actions, and <ul style="list-style-type: none"> - there are no extraordinary circumstances, and - the action is not connected to other actions with potentially significant impacts (as described in 10 CFR 1021.410[b][2] and [3]), the CX Determination is documented on the Environmental Checklist. Appendix A CX Determinations may be documented and made available pursuant to SAP-OTSAM-451B-05, Rev.1, <i>Conducting Public Participation Under the National Environmental Policy Act (NEPA)</i> . b. If the proposed action is listed in 10 CFR 1021, Appendix B to Subpart D of Part 1021—Categorical Exclusions Applicable to Specific Agency Actions, and <ul style="list-style-type: none"> - there are no extraordinary circumstances and the action is not connected to other actions with potentially significant impacts (as described in 10 CFR 1021.410[b][2] and [3]), and - the four conditions listed in Appendix B(1) to B(4) are met, then a CX is the appropriate level of review. The Appendix B CX determination must be documented on the Environmental Checklist. CX determinations shall

	<p>be documented and made available to the public pursuant to SAP-OTSAM-451B-05, Rev.0, <i>Conducting Public Participation Under the National Environmental Policy Act (NEPA)</i>.</p> <p>c. If the proposed action is listed in 10 CFR 1021, Appendix C to Subpart D of Part 1021—Classes of Actions that Normally Require Environmental Assessments (EAs) but not Necessarily Environmental Impact Statements (EISs), then an EA is normally the appropriate level of review. The EA recommendation is documented on the Environmental Checklist. An EA determination must be concurred upon by legal counsel and signed by the Director of EMCBC or Field Operation Site/SLA Director/Federal Project Director to authorize preparation of an EA. See SAP-OTSAM-451B-03, Rev.0, <i>Following the EA Process</i>.</p> <p>d. If the proposed action is listed in 10 CFR 1021, Appendix D to Subpart D of Part 1021—Classes of Actions that Normally Require EISs, then an EIS is normally the appropriate level of review. The EIS recommendation is documented on the Environmental Checklist. An EIS determination must be concurred upon by legal counsel and signed by the EMCBC Director or Field Operation Site/SLA Director/Federal Project Director to authorize preparation of an EIS. See SAP-OTSAM-451B-04, Rev. 0, <i>Following the EIS Process</i>.</p> <p>e. If the proposed action does not fall within one of the categories of actions in Subpart D of 10 CFR 1021, the NCO recommends whether to prepare an EA or EIS based upon the potential for significant impacts. As defined in the 40 CFR 1508.27, Council on Environmental Quality Regulations, the term “significant” requires consideration of both context and intensity of the action. When evaluating intensity, factors that must be considered include beneficial as well as adverse impacts, impacts to sensitive resources (e.g., wetlands, floodplains, cultural resources, endangered, and threatened species, prime farmlands), highly controversial impacts, impacts to public health or safety, environmental justice, cumulative impacts, highly uncertain or unique impacts, actions which may establish a precedent for future actions with potentially significant effects, and actions that threaten to violate environmental laws or regulations, and threats to national security. In the absence of a clear-cut pathway to NEPA compliance, it is always appropriate to commence the NEPA process with the preparation of an EA. See 10 CFR 1021.321, Requirements for Environmental Assessments, and 40 CFR 1508.9(a), Environmental Assessment.</p>
Step 7	Electronic copies of all determinations shall be forwarded to the line organization responsible for the action. The NCO ensures that official records of NEPA determinations are maintained in accordance with applicable EMCBC, SLA, or Field Operation Site office records management requirements.

3.0 References – Forms/Attachments/Exhibits

3.1 References

- 10 CFR Part 1021, U.S. Department of Energy (DOE): National Environmental Policy Act (NEPA) Implementing Procedures
- 10 CFR 1021, Appendix A to Subpart D of Part 1021—Categorical Exclusions Applicable to General Agency Actions
- 10 CFR 1021, Appendix B to Subpart D of Part 1021—Categorical Exclusions Applicable to Specific Agency Actions
- 10 CFR 1021, Appendix C to Subpart D of Part 1021—Classes of Actions that Normally Require EAs but not Necessarily EISs
- 10 CFR 1021, Appendix D to Subpart D of Part 1021—Classes of Actions that Normally Require EISs
- 10 CFR Part 1022, Compliance with Floodplain and Wetland Environmental Review Requirements
- 40 CFR Part 1500 - 1508, Council on Environmental Quality (CEQ): Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (NEPA)
- DOE O 451.1B, Admin. Change 3, National Environmental Policy Act Compliance Program (01/19/2012)
- Flowchart for Determining the Appropriate Level of NEPA Review
- Instructions for Preparing NEPA Environmental Evaluation Notification Form (Example)
- National Environmental Policy Act (NEPA) Environmental Evaluation Notification Form (Example)
- SAP-OTSAM-451B-02, Rev. 0, Implementing Categorical Exclusion (CX) Determinations
- SAP-OTSAM-451B-03, Rev. 0, Following the Environmental Assessment (EA) Process
- SAP-OTSAM-451B-04, Rev. 0, Following the Environmental Impact Statement (EIS) Process
- SAP-OTSAM-451B-05, Rev. 1, Conducting Public Participation under the National Environmental Policy Act (NEPA)
- SAP-OTSAM-451B-06, Rev. 1, Preparing QA Plans for National Environmental Policy Act (NEPA) Process
- 42 U.S.C. 4321 et seq., National Environmental Policy Act (NEPA) of 1969, as Amended

3.2 Forms

Environmental Checklist (SAP-OTSAM-451B-01-F1, Rev.0)

4.0 Records Generated

Records generated by the EMCBC through implementation of this procedure are identified as follows and are maintained by the Office of Technical Support & Asset Management in accordance with the EMCBC organizational file plan. SLA and Field Operation Sites shall maintain records generated through implementation of this procedure under the same records category code, which is the equivalent to the DOE records disposition authority, and are managed in accordance with their respective site file plan.

Records Category Code	Records Title	Responsible Organization	Quality Records Classification (Lifetime, Non-Permanent, or Not Applicable)
ENV-02-F-01C	National Environmental Policy Act and Related Laws Documentation, Environmental Impact Statements	Office of Technical Support & Asset Management, or applicable SLA or Field Operation Site Office	Not Applicable
ENV-02-F-02C	National Environmental Policy Act and Related Laws Documentation, Environmental Assessment Records	Office of Technical Support & Asset Management, or applicable SLA or Field Operation Site Office	Not Applicable
ENV-02-F-03C	National Environmental Policy Act and Related Laws Documentation, Categorical Exclusion Records	Office of Technical Support & Asset Management, or applicable SLA or Field Operation Site Office	Not Applicable
ENV-02-F-04	National Environmental Policy Act and Related Laws Documentation, Support Documentation	Office of Technical Support & Asset Management, or applicable SLA or Field Operation Site Office	Not Applicable

EMCBC RECORD OF REVISION**DOCUMENT TITLE: NEPA Establishing Level of Review**

If there are changes to the controlled document before the two-year review cycle, the revision number stays the same; one of the following will indicate the change:

I Placing a vertical black line in the left margin adjacent to sentence or paragraph that was revised; or

I Placing the words GENERAL REVISION at the beginning of the text. This statement is used when entire sections of the document are revised.

If changes and updates occur at the two-year review cycle, the revision number increases by one.

Rev. No.	Description of Changes	Revision on Pages	Date
0	Revised Document to align with new Executive Order 13693 requirements	All	09/21/16